

REMARKS/ARGUMENTS

Claims 1 to 14, 16 to 28, 30 to 47, and 49 to 62 are now pending in this application. Claims 15, 29, and 48 have been canceled. Claims 1, 3, 16, 17, 31, and 33 have been amended to clarify the present invention. New claims 49 to 62 have been added.

The drawings were objected to under 37 CFR 1.83(a) for failing to show the light. Applicants submit that it would be clear and unambiguous to one skilled in the relevant art to understand what a light is. Nevertheless, Applicants have canceled claims 15, 29, and 48, thereby rendering moot the drawing objection under 37 CFR 1.83(a).

Claims 1 to 5, 7, 8, 13, 15 to 19, 21, 22, 28 to 36, 38, 39, 47 and 48 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jennings et al. Applicants respectfully traverse this rejection on the grounds that Jennings et al. does not disclose all of the elements set forth in the independent claims of this application.

The present application contains independent claims 1, 16 and 31, each of which was rejected under section 102. Applicants explain below that each of the independent claims is now clearly distinguishable over Jennings et al.

Concerning the §102(b) rejection of claims 1 to 5, 7, 8, 13, and 15, independent claim 1 covers the novel and nonobvious appreciation of a toy garment capable of generating a sound having a sound generating member with a first actuator switch and an outer housing; and an article of dress having means for receiving the sound generating member, the article of dress being clothing, wherein the sound generating member emits a sound in response to actuation of the first actuator switch.

The Action sets forth that Jennings et al. teaches in the figures a toy garment comprising a sound generating member (20) and an article of dress (Fig. 1), an integrated circuit chip, an amplifier and power supply (col. 2, par. 4 to 8). In response, Applicants respectfully submit that Jennings et al. does not disclose clothing as recited in claim 1. Instead, the Jennings et al. device is a toy space helmet, which is not clothing.

Claims 2 to 5, 7, 8, 13, and 15 depend from claim 1, so they are not anticipated by Jennings et al. and also patentably distinguishable for at least the same reasons as discussed above with respect to claim 1. Claim 15 has been canceled, rendering moot the rejection as to that claim.

Additionally, claims 3, 7, and 8 are further distinguishable on their own merits. Claim 3 covers clothing selected from the group consisting of a skirt, dress, shirt, and pants. As set forth above, Jennings et al. discloses a space helmet. It neither discloses nor suggests any of the clothing of claim 3.

Claims 7 and 8 cover a toy garment having a sound generating member with a second actuator switch that is activated by motion of the sound generating member, where the sound generating member emits sound in response to actuation of a first actuator switch and motion of the sound generating member, respectively. That is, the first actuator turns on the sound generating member, and the second actuator is motion-activated. In the Jennings et al. device, the first actuator involves speaking into a

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microphone, and the second actuator projects sound.

Jennings et al. neither discloses nor suggests motion-activated actuation as in claims 7 and 8 of the present invention.

Concerning the §102(b) rejection of claims 16 to 19, 21, 22, and 28 to 30, independent claim 16 covers the novel and nonobvious appreciation of a toy garment capable of generating a sound having an article of dress with a pocket, where the article of dress is clothing; and a sound generating member adapted to be removably inserted into the pocket and having an integrated circuit chip, an amplifier, a power supply, a first actuator switch and an outer housing, where the sound generating member emits a sound in response to actuation of the first actuator switch.

Applicants have further clarified independent claim 16, and respectfully submit that the subject matter claimed therein is neither disclosed nor suggested by the Jennings et al. patent. Thus, claim 16 is not anticipated by Jennings et al.

As stated above with regard to claim 1, the Action sets forth that Jennings et al. teaches in the figures a toy garment comprising a sound generating member (20) and an article of dress (Fig. 1), an integrated circuit chip, an amplifier and power supply (col. 2, par. 4 to 8). In response, Applicants respectfully submit that Jennings et al. neither discloses nor suggests the clothing of claim 16. Instead the Jennings et al. device is a toy space helmet. Applicants submit that a toy space helmet is not clothing.

Claims 17 to 19, 21, 22, and 28 to 30 depend from claim 1, so they are not anticipated by Jennings et al. and also patentably distinguishable for at least the same reasons as discussed above with respect to claim 16. Claim 29 has been canceled, rendering moot the rejection as to that claim. Additionally, claims 17, 21, 22, and 30 are further distinguishable on their own merits. Claim 17 covers clothing selected from the group consisting of a skirt, dress, shirt, and pants. As set forth above, Jennings et al. discloses a space helmet. It does not disclose or suggest any of the clothing of claim 17.

Claims 21 and 22 cover a toy garment having a sound generating member having a second actuator switch that is activated by motion of the sound generating member, where the sound generating member emits sound in response to actuation of a first actuator switch and motion of the sound generating member, respectively. That is, the first actuator turns on the sound generating member, and the second actuator is motion-activated. In the Jennings et al. device, the first actuator involves speaking into a microphone, and the second actuator projects sound. Jennings et al. neither discloses nor suggests motion-activated actuation as in the claimed present invention.

Claim 30 covers a toy garment having an article of dress and a sound generating member that are miniaturized. The Office Action sets forth that regarding claim 30, Jennings et al. teaches a miniaturized article and sound generating member in Figure 1. Applicants respectfully submit that there is no indication in Figure 1 of Jennings et al., or anywhere else in Jennings et al. for that matter, that the toy space helmet is miniaturized. Consequently, Jennings et al. does not disclose miniaturization as in claim 30 of the present invention.

Concerning the §102(b) rejection of claims 31 to 36, 38, 39, 47, and 48, independent claim 31 covers the novel and nonobvious appreciation of a toy garment capable of generating a sound having a sound generating member with a first actuator switch and a second actuator switch; and an article of dress having means for receiving the sound generating member, where the article of dress is clothing.

As stated above with regard to claims 1 and 16, the Action sets forth that Jennings et al. teaches in the figures a toy garment comprising a sound generating member (20) and an article of dress (Fig. 1), an integrated circuit chip, an amplifier and power supply (col. 2, par. 4 to 8). In response, Applicants respectfully submit that Jennings et al. does not disclose the clothing of claim 31. Instead, the Jennings et al. device is a toy space helmet, which is not clothing.

Claims 32 to 36, 38, 39, 47, and 48, depend from claim 31, so they are not anticipated by Jennings et al. and also patentably distinguishable for at least the same reasons as discussed above with respect to claim 31. Claim 48 has

been canceled, rendering moot the rejection as to that claim. Additionally, claims 33, 38, and 39 are further distinguishable on their own merits. Claim 33 covers clothing selected from the group consisting of a skirt, dress, shirt, and pants. As set forth above, Jennings et al. discloses a space helmet. It neither discloses nor suggests any of the clothing of claim 33.

Claims 38 and 39 cover a toy garment having a first actuator switch that is actuated and deactuated by manual depression of the first actuator switch, and a second actuator switch that is actuated by motion of the sound generating member, respectively. That is, in claim 38 the first actuator manually turns on and off the sound generating member, and in claim 39 the second actuator is motion-activated. In the Jennings et al. device, the first actuator involves speaking into a microphone, and the second actuator projects sound. Jennings et al. does not disclose manual and motion-activated actuation as in claims 38 and 39, respectively, of the present invention.

Applicants submit that Jennings et al. does not describe all of the elements set forth in claims 1, 16 and

31. Thus, Jennings et al. does not anticipate claims 1, 16, and 31. Furthermore, for the reasons set forth above, Jennings et al. does not anticipate claims 2 to 5, 7, 8, 13, 15, 17 to 19, 21, 22, 28 to 30, 32 to 36, 38, 39, 47, and 48. Accordingly, Applicants respectfully request reconsideration and withdrawal of the section 102(b) rejection of these claims.

Claims 1, 3 to 6, 15, 31, 33 to 37, and 48 were rejected under 35 U.S.C. § 102(b) as being anticipated by Bart et al. Applicants respectfully traverse this rejection on the grounds that Bart et al. does not disclose all of the elements set forth in the independent claims.

Independent claim 1 covers a toy garment capable of generating a sound having a sound generating member having a first actuator switch and an outer housing, and an article of dress having means for receiving the sound generating member, wherein the sound generating member emits a sound in response to actuation of the first actuator switch, and where the article of dress is clothing. Independent claim 31 covers a toy garment capable of generating a sound having a sound generating

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member having a first actuator switch and a second actuator switch; and an article of dress having means for receiving the sound generating member, where the article of dress is clothing.

The Action sets forth that Bart et al. teaches in the figures a toy garment comprising a sound generating member (Fig. 3) and an article of dress (Fig. 5). In response, Bart et al. neither discloses nor suggests the article of dress, let alone the clothing, of claims 1 and 31. Instead, the Bart et al. device is a toy wristband that, applicants submit, is not clothing. The Action even concedes in taking "the position the wristband of Bart meets the broadest reasonable interpretation of jewelry" (page 3 of Office Action). Consequently, Applicants respectfully submit that the Bart et al. wristband is not clothing.

Furthermore, with regard to claim 31, the wristband of Bart et al. does not have a sound generating member having a first actuator switch and a second actuator switch. Instead, the Bart et al. wristband discloses a single barrel-spring momentary contact switch, where the switch is

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connected electrically to batteries, a speaker, and a memory device.

Claims 3 to 6, and 15 depend from claim 1, and claims 33 to 37, and 48 depend from claim 31, so they are not anticipated by Bart et al. and also patentably distinguishable for at least the same reasons as discussed above with respect to claims 1 and 31. Claims 15 and 48 have been canceled, rendering moot the rejection as to those claims. Additionally, claims 3, 6, 33, and 37 are further distinguishable on their own merits. Claims 3 and 33 cover clothing selected from the group consisting of a skirt, dress, shirt, and pants. In contrast, as set forth above, Bart et al. discloses a toy band, arguably jewelry as conceded by the Office Action, which is not clothing.

Claims 6 and 37 cover a toy garment having a sound generating member that emits interchangeable prerecorded sound. Although the Office Action argues that the Bart et al. ring teaches prerecorded sound, Applicants submit that Bart et al. does not disclose interchangeable prerecorded sound as in claims 6 and 37.

Applicants submit that Bart et al. does not disclose all of the elements set forth in claims 1 and 31. Thus, Bart et al. does not anticipate claims 1 and 31. Furthermore, for the reasons set forth above, Bart et al. does not anticipate claims 3 to 6, 15, 33 to 37, and 48. Accordingly, Applicants respectfully request reconsideration and withdrawal of the section 102(b) rejection of these claims.

The Action has rejected claims 9 to 12, 23 to 27, and 40 to 46 under 35 U.S.C. 103(a) as being unpatentable over Jennings et al. Claims 6 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings et al. in view of Bart et al.

The Action sets forth that Jennings et al. teaches in the figures most of the elements of the claimed invention. However, the Action does concede that Jennings et al. fails to teach elements of the claims noted above. The Action states that it would have been considered a mere design choice to incorporate the elements of the claims noted above to the device of Jennings et al. for the purpose of

allowing the device to produce sound in an interval of time.

Applicants respectfully submit that the Jennings et al. patent neither discloses nor suggests all of the elements of the claimed present invention. Claims 9 to 12, 23 to 27, and 40 to 46 are all drawn to the motion actuation and non-motion deactuation features of the present invention. Applicants submit that there is nothing in Jennings et al. that would disclose or suggest motion actuation or deactuation due to non-motion of the device. Furthermore, as set forth above, Jennings et al. teaches a toy space helmet, whereas claims 1 to 48 of the present invention relate to an article of dress, specifically clothing. As set forth in col. 1, lines 25 to 29, and 42 to 46, and col. 3, lines 3 to 5, and 20 to 26, the Jennings et al. toy space helmet has a built-in voice modulator and amplifier for altering and projecting a person's voice. Voice alteration is obtained by multiplying the audio signal produced by the microphone with a sine wave signal produced by an oscillator. The product of the audio signal and the sine wave signal is fed to the speaker through an audio amplifier. The product of the voice signal with the

sine wave signal produces a special effect that simulates an alien voice. The multiplier is adjusted to have zero output with the voice signal developed by the pre-amp being at zero level. Otherwise, the sine wave signal would be reproduced continuously by the loud speaker. Properly adjusted, there is no audible output from the loud speaker unless there is an audio signal produced by the microphone (see also, claim 1).

It would only be hindsight reconstruction that would motivate one skilled in the art to modify the teaching of Jennings et al. to use the motion and non-motion features disclosed in the present application to perform the function of actuation and deactuation, respectively. But for the teaching of the present application itself, one would not look to Jennings et al. to anticipate or make obvious that which is claimed in the present application.

As stated above, claims 6 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings et al. in view of Bart et al. (the Office Action states "Barton" rather than "Bart", however, Applicants assume that this is a spelling error). The Action sets forth that Jennings et

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al. teaches most of the elements of the claimed invention, except for prerecorded sounds. The Action states that Bart et al. teaches a toy band having prerecorded sounds (col. 3, lines 60 to 64). Furthermore, the Action argues that it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate prerecorded sounds as taught by Bart et al. in the device of Jennings et al. for the purpose of recording any person's voice.

Applicants respectfully traverse the rejection on the grounds that (a) there is no teaching, suggestion or motivation in Jennings et al. for the modification proposed by the Examiner, and (b) a combination of the Jennings et al. and Bart et al. patents, even if technically feasible, does not yield the invention as recited in the independent claims.

Jennings et al. teaches a toy space helmet with a voice modulator that allows the user or wearer of the helmet to alter his or her spoken voice to produce a special effect which simulates an alien voice. This allows for the wearer of the helmet to speak with an alien-like

voice in real time. There would be no motivation to modify this device to include the Bart et al. toy wristband's memory storage device (ROM) having a pre-recorded audio message, as the Jennings et al. helmet. An obviousness rejection requires that a reference provide a teaching, suggestion or motivation for a proposed modification. Jennings et al. does not appear to provide any teaching, suggestion or motivation to be modified for use with pre-recorded sound. Furthermore, even if arguably there was motivation for such modification, Applicants submit that Bart et al. does not provide for interchangeable prerecorded sound as in claims 6 and 20. As such, even if the teachings of the Jennings et al. and Bart et al. patents were somehow combined, as attempted in the Action, the resulting combination would still be deficient in disclosing or suggesting the claimed subject matter.

Applicants further submit that dependent claims 6 and 20 depend from independent claims 1 and 16, respectively. For reasons analogous to those set forth above, Applicants respectfully submit that independent claims 1 and 16 are patentably distinguishable over Jennings et al. and Bart et al., either alone or in combination. Claims 6 and 20 depend

from claims 1 and 16, respectively, so they are also patentably distinguishable for at least the same reason as claims 1 and 16. Additionally, claims 6 and 20 are further distinguishable on their own merits for the reasons set forth above. Applicants respectfully request reconsideration and withdrawal of the section 103 rejection of claims 6 and 20.

As such, Jennings et al., taken alone or in combination with Bart et al., does not provide a sufficient basis for a section 103(a) rejection of the aforementioned claims.

New independent claim 49 covers a toy garment capable of generating a sound having a sound generating member with a first actuator switch and an outer housing; and an article of dress having means for receiving the sound generating member, the article of dress being a shoe, wherein the sound generating member emits a sound in response to actuation of the first actuator switch.

New independent claim 49 and new dependent claims 50 to 62 are not anticipated by Jennings et al. or Bart et al., and are also patentably distinguishable over each,

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taken alone or in combination, for analogous reasons as discussed above with respect to claims 1 to 48.

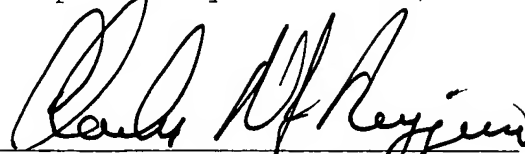
Specifically, the shoe of claim 49 is not disclosed in either Jennings et al. or Bart et al. Furthermore, neither Jennings et al. or Bart et al. taken alone or in combination, discloses nor suggests all of the elements of any of the new claims of the present invention.

In view of the foregoing, Applicants respectfully submit that the claims of the present invention are allowable, and request that the rejections be reconsidered and withdrawn. Applicants respectfully urge that the claims of this application be given favorable consideration and immediate passage to allowance. In the event that further clarification is required prior to allowance, applicants respectfully request that the Examiner contact Applicants' undersigned attorney.

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